

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

---

NOBELBIZ, INC.

Plaintiff,

v.

T C N, INC.,

Defendant.

---

Civil Action No. 6:12-cv-00247-MHS

**REPLY TO COUNTERCLAIMS**

1. Plaintiff, NobelBiz, Inc. (“NobelBiz”), by and through its counsel, Capshaw DeRieux, L.L.P. and Gibbons P.C., as for its reply to Defendant, T C N, Inc.’s (“TCN” or “Defendant”) counterclaims dated May 9, 2013,<sup>1</sup> hereby states as follows:<sup>2</sup>

**THE PARTIES**

2. Admitted.

3. Admitted.

**JURISDICTION AND VENUE**

4. NobelBiz maintains that jurisdiction and venue are proper in this Court. Except as so admitted, NobelBiz denies each and every allegation in Paragraph No. 4.

5. Admitted.

---

<sup>1</sup> NobelBiz notes that TCN’s May 9, 2013 Counterclaims (Dkt. 62) are identical to TCN’s May 25, 2012 Counterclaims (Dkt. 15) and thus have not been “amended,” *per se*.

<sup>2</sup> The paragraphs herein conform with those of TCN’s May 9, 2013 Counterclaims, Dkt. 62, ¶¶ 1-22.

**FACTUAL BACKGROUND**

6. NobelBiz has insufficient knowledge or information to form a belief about the truth of this allegation.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

**COUNT I**

**Declaratory Judgment Of Non-Infringement Of U.S. 8,135,122**

13. This statement does not call for an affirmative response. NobelBiz restates and incorporates by reference paragraphs 1 through 12 as if stated fully herein.

14. Admitted.

15. This statement does not call for an affirmative response.

16. Denied.

**COUNT TWO**

**Declaration Of Invalidity Of U.S. 8,135,122**

17. This statement does not call for an affirmative response. NobelBiz restates and incorporates by reference paragraphs 1 through 16 as if stated fully herein.

18. Admitted.

19. This statement does not call for an affirmative response.

20. Denied.

21. Denied.

**JURY DEMAND**

22. NobelBiz does not oppose a trial by jury of any issue so triable.

**PRAYER FOR RELIEF**

23. NobelBiz denies that TCN is entitled to any of the relief requested in its Prayer for Relief.

**AFFIRMATIVE DEFENSES**

24. NobelBiz incorporates Count 1 of NobelBiz's Amended Complaint (Dkt. 60) as if fully set forth herein.

**First Affirmative Defense**

25. TCN's Counterclaims fail to state a claim upon which relief can be granted.
26. NobelBiz reserves the right to amend its Affirmative Defenses.

DATED: May 29, 2013

By: /s/ Elizabeth DeRieux  
S. Calvin Capshaw, III  
Texas Bar No. 03783900  
Elizabeth L DeRieux  
Texas Bar No. 05770585  
D. Jeffrey Rambin  
Texas Bar No. 00791478  
**CAPSHAW DERIEUX LLP**  
114 E. Commerce Avenue  
Gladewater, TX 75647  
Phone: (903) 233-4816  
Facsimile: (903) 236-8787  
Email: ccapshaw@capshawlaw.com  
Email: ederieux@capshawlaw.com  
Email: jrambin@capshawlaw.com

Of Counsel:

Ralph A. Dengler *pro hac vice*  
Todd M. Noshier *pro hac vice to be filed*  
Andrew P. MacArthur *pro hac vice*  
**GIBBONS, P.C.**  
One Gateway Center  
Newark, NJ 07102  
Phone: (973) 596-4825  
Facsimile: (973) 639-6381  
Email: rdengler@gibbonslaw.com  
Email: tnoshier@gibbonslaw.com  
Email: [amacarthur@gibbonslaw.com](mailto:amacarthur@gibbonslaw.com)

*Attorneys for Plaintiff, NobelBiz, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that the all counsel of record who are deemed to have consented to electronic service are being served this 29<sup>th</sup> day of May, 2013, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Elizabeth L. DeRieux